

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 458

97TH GENERAL ASSEMBLY

0091L.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to the Missouri special needs scholarship program known as Bryce's Law.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.1220, to read as follows:

135.1220. 1. This section shall be known and may be cited as "Bryce's Law".

2. As used in this section, the following terms mean:

(1) "Autism spectrum disorder", pervasive developmental disorder; Asperger syndrome; childhood disintegrative disorder; Rett syndrome; and autism;

(2) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;

(3) "Department", the department of elementary and secondary education;

(4) "Director", the commissioner of the department of elementary and secondary education;

(5) "Educational scholarships", grants to students or children to cover all or part of the tuition and fees at a qualified nonpublic school, a qualified public school, or a qualified service provider, including transportation;

(6) "Eligible child", any child from birth to age five living in Missouri who has an individualized family services program under the First Steps program, sections 160.900 to 160.933, and whose parent or guardian has completed the complaint procedure under the Individuals with Disabilities Education Act, Part C, and has received an unsatisfactory response; or any child from birth to age five who has been evaluated for special needs as

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 defined in this section by a person qualified to perform evaluations under the First Steps
19 program and has been determined to have special needs but who falls below the threshold
20 for eligibility by no less than twenty-five percent;

21 (7) "Eligible student", any elementary or secondary student who attended public
22 school in Missouri the preceding semester, or who will be attending school in Missouri for
23 the first time, who has an individualized education program based on a special needs
24 condition or who has a medical diagnosis by a qualified health professional of a special
25 needs condition;

26 (8) "Parent", includes a guardian, custodian, or other person with authority to act
27 on behalf of the student or child;

28 (9) "Program", the program established in this section;

29 (10) "Qualified health professional", a person licensed under chapter 334 or 337
30 who possesses credentials as described in rules promulgated jointly by the department of
31 elementary and secondary education and the department of mental health to make a
32 diagnosis of a student's special needs for this program;

33 (11) "Qualified school", either an accredited public elementary or secondary school
34 in a district that is accredited without provision outside of the district in which a student
35 resides or an accredited nonpublic elementary or secondary school in Missouri that
36 complies with all of the requirements of the program and complies with all state laws that
37 apply to nonpublic schools regarding criminal background checks for employees and
38 excludes from employment any person not permitted by state law to work in a nonpublic
39 school;

40 (12) "Qualified service provider", a person or agency authorized by the department
41 to provide services under the First Steps program, sections 160.900 to 160.933;

42 (13) "Scholarship granting organization", a charitable organization that:

43 (a) Is exempt from federal income tax;

44 (b) Complies with the requirements of this program;

45 (c) Provides education scholarships to students attending qualified schools of their
46 parents' choice or to children receiving services from qualified service providers; and

47 (d) Does not accept contributions on behalf of any eligible student or eligible child
48 from any donor with any obligation to provide any support for the eligible student or
49 eligible child;

50 (14) "Special needs", an autism spectrum disorder, Down syndrome, Angelman
51 syndrome, or cerebral palsy.

52 3. The department of elementary and secondary education shall develop a master
53 list of resources available to the parents of children with an autism spectrum disorder and

54 shall maintain a web page for the information. The department shall also actively seek
55 financial resources in the form of grants and donations that may be devoted to scholarship
56 funds or to clinical trials for behavioral interventions that may be undertaken by qualified
57 service providers. The department may contract out or delegate these duties to a nonprofit
58 organization. Priority in referral for funding shall be given to children who have not yet
59 entered elementary school.

60 4. The director shall determine, at least annually, which organizations in this state
61 may be classified as scholarship granting organizations. The director may require of an
62 organization seeking to be classified as a scholarship granting organization whatever
63 information which is reasonably necessary to make such a determination. The director
64 shall classify an organization as a scholarship granting organization if such organization
65 meets the definition set forth in this section.

66 5. The director shall establish a procedure by which a donor can determine if an
67 organization has been classified as a scholarship granting organization. Scholarship
68 granting organizations shall be permitted to decline a contribution from a donor.

69 6. Each scholarship granting organization shall provide information to the director
70 concerning the identity of each donor making a contribution to the scholarship granting
71 organization.

72 7. (1) The director shall annually make a determination on the number of students
73 in Missouri with an individualized education program based upon special needs as defined
74 in this section. The director shall use ten percent of this number to determine the
75 maximum number of students to receive scholarships from a scholarship granting
76 organization in that year for students with special needs who have at the time of
77 application an individualized education program, plus a number calculated by the
78 commissioner by applying the state's latest available autism, cerebral palsy, Down
79 syndrome, and Angelman syndrome incidence rates to the state's population of children
80 from age five to nineteen who are not enrolled in public schools and taking ten percent of
81 that number. The total of these two calculations shall constitute the maximum number of
82 scholarships available to students.

83 (2) The director shall also annually make a determination on the number of
84 children in Missouri whose parent or guardian has enrolled the child in First Steps,
85 received an individualized family services program based on special needs, and filed a
86 complaint through the Individuals with Disabilities Education Act, Part C, and received
87 an unsatisfactory response. In addition to this number, the director shall apply the latest
88 available autism, cerebral palsy, Down syndrome, and Angelman syndrome incidence rates

89 to the latest available census information for children from birth to age five and determine
90 ten percent of that number for the maximum number of scholarships for children.

91 (3) The director shall publicly announce the number of each category of
92 scholarship opportunities available each year. Once a scholarship granting organization
93 has decided to provide a student or child with a scholarship, it shall promptly notify the
94 director. The director shall keep a running tally of the number of scholarships granted in
95 the order in which they were reported. Once the tally reaches the annual limit of
96 scholarships for eligible students or children, the director shall notify all of the
97 participating scholarship granting organizations that they shall not issue any more
98 scholarships and any more receipts for contributions. If the scholarship granting
99 organizations have not expended all of their available scholarship funds in that year at the
100 time when the limit is reached, the available scholarship funds may be carried over into the
101 next year. These unexpended funds shall not be counted as part of the requirement in
102 subdivision (3) of subsection 8 of this section for that year. Any receipt for a scholarship
103 contribution issued by a scholarship granting organization before the director has publicly
104 announced the student or child limit has been reached shall be valid.

105 8. Each scholarship granting organization participating in the program shall:

106 (1) Notify the department of its intent to provide educational scholarships to
107 students attending qualified schools or children receiving services from qualified service
108 providers;

109 (2) Provide a department-approved receipt to donors for contributions made to the
110 organization;

111 (3) Ensure that at least ninety percent of its revenue from donations is spent on
112 educational scholarships, and that all revenue from interest or investments is spent on
113 educational scholarships;

114 (4) Ensure that the scholarships provided do not exceed an average of twenty
115 thousand dollars per eligible child or fifty thousand dollars per eligible student;

116 (5) Inform the parent or guardian of the student or child applying for a scholarship
117 that accepting the scholarship is tantamount to a 'parentally placed private school student'
118 pursuant to 34 CFR 300.130 and, thus, neither the department nor any Missouri public
119 school is responsible to provide the student with a free appropriate public education
120 pursuant to the IDEA or Section 504 of the Rehabilitation Act of 1973;

121 (6) Distribute periodic scholarship payments as checks made out to a student's or
122 child's parent and mailed to the qualified school where the student is enrolled or qualified
123 service provider used by the child. The parent or guardian shall endorse the check before
124 it can be deposited;

(7) Cooperate with the department to conduct criminal background checks on all of its employees and board members and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds;

(8) Ensure that scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student or at a different qualified service provider for an eligible child according to a parent's wishes. If a student moves to a new qualified school during a school year or to a different qualified service provider for an eligible child, the scholarship amount may be prorated;

(9) Demonstrate its financial accountability by:

(a) Submitting a financial information report for the organization that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant; and

(b) Having the auditor certify that the report is free of material misstatements;

(10) Demonstrate its financial viability, if the organization is to receive donations of fifty thousand dollars or more during the school year, by filing with the department before the start of the school year:

(a) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(b) Financial information that demonstrates the financial viability of the scholarship granting organization.

9. Each scholarship granting organization shall ensure that each participating school or service provider that accepts its scholarship students or children shall:

(1) Comply with all health and safety laws or codes that apply to nonpublic schools or service providers;

(2) Hold a valid occupancy permit if required by its municipality;

(3) Certify that it will comply with 42 U.S.C. Section 1981, as amended;

(4) Provide academic accountability to parents of the students or children in the program by regularly reporting to the parent on the student's or child's progress;

(5) Certify that in providing any educational services or behavior strategies to a scholarship recipient with a medical diagnosis of or an individualized education program based upon autism spectrum disorder it will:

(a) Adhere to the best practices recommendations of the Missouri Autism Guidelines Initiative or document why it is varying from the guidelines;

(b) Not use any evidence-based interventions that have been found ineffective by the Centers for Medicare and Medicaid Services as described in the Missouri Autism Guidelines Initiative Guide to Evidence-based Interventions; and

(c) Provide documentation in the student's or child's record of the rationale for the use of any intervention that is categorized as unestablished, insufficient evidence, or level 3 by the Missouri Autism Guidelines Initiative Guide to Evidence-based Interventions; and

(6) Certify that in providing any educational services or behavior strategies to a scholarship recipient with a medical diagnosis of, or an individualized family services program based upon Down syndrome, Angelman syndrome, or cerebral palsy, it will use student, teacher, teaching, and school influences that rank in the zone of desired effects in the meta-analysis of John Hattie, or equivalent analyses as determined by the department, or document why it is using a method that has not been determined by analysis to rank in the zone of desired effects.

10. Scholarship granting organizations shall not provide educational scholarships for students to attend any school or children to receive services from any qualified service provider with paid staff or board members who are relatives within the first degree of consanguinity or affinity.

11. A scholarship granting organization shall publicly report to the department, by June first of each year, the following information prepared by a certified public accountant regarding its grants in the previous calendar year:

(1) The name and address of the scholarship granting organization;

(2) The total number and total dollar amount of contributions received during the previous calendar year; and

(3) The total number and total dollar amount of educational scholarships awarded during the previous calendar year, including the category of each scholarship, and the total number and total dollar amount of educational scholarships awarded during the previous year to students eligible for free and reduced lunch.

12. The department shall adopt rules and regulations consistent with this section as necessary to implement the program.

13. The department shall provide a standardized format for a receipt to be issued by a scholarship granting organization to a donor to indicate the value of a contribution received.

14. The department shall provide a standardized format for scholarship granting organizations to report the information in this section.

15. The department may conduct either a financial review or audit of a scholarship granting organization.

16. If the department believes that a scholarship granting organization has intentionally and substantially failed to comply with the requirements of this section, the department may hold a hearing before the director or the director's designee to bar a

197 scholarship granting organization from participating in the program. The director or the
198 director's designee shall issue a decision within thirty days. A scholarship granting
199 organization may appeal the director's decision to the administrative hearing commission
200 for a hearing in accordance with the provisions of chapter 621.

201 17. If the scholarship granting organization is barred from participating in the
202 program, the department shall notify affected scholarship students or children and their
203 parents of this decision within fifteen days.

204 18. Any rule or portion of a rule, as that term is defined in section 536.010, that is
205 created under the authority delegated in this section shall become effective only if it
206 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
207 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
208 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
209 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
210 grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,
211 shall be invalid and void.

212 19. The department shall conduct a study of the program with funds other than
213 state funds. The department may contract with one or more qualified researchers who
214 have previous experience evaluating similar programs. The department may accept grants
215 to assist in funding this study.

216 20. The study shall assess:

217 (1) The level of participating students' and children's satisfaction with the program
218 in a manner suitable to the student or child;

219 (2) The level of parental satisfaction with the program;

220 (3) The percentage of participating students who were bullied or harassed because
221 of their special needs status at their resident school district compared to the percentage so
222 bullied or harassed at their qualified school;

223 (4) The percentage of participating students who exhibited behavioral problems at
224 their resident school district compared to the percentage exhibiting behavioral problems
225 at their qualified school;

226 (5) The class size experienced by participating students at their resident school
227 district and at their qualified school; and

228 (6) The fiscal impact to the state and resident school districts of the program.

229 21. The study shall be completed using appropriate analytical and behavioral
230 sciences methodologies to ensure public confidence in the study.

231 22. The department shall provide the general assembly with a final copy of the
232 evaluation of the program by December 31, 2016.

233 **23. The public and nonpublic participating schools and service providers to which**
234 **students transfer to participate in the program shall cooperate with the research effort by**
235 **providing student or child assessment instrument scores and any other data necessary to**
236 **complete this study.**

237 **24. The general assembly may require periodic updates on the status of the study**
238 **from the department. The individuals completing the study shall make their data and**
239 **methodology available for public review while complying with the requirements of the**
240 **Family Educational Rights and Privacy Act, as amended.**

241 **25. Under section 23.253 of the Missouri sunset act:**

242 **(1) The provisions of the new program authorized under this section shall sunset**
243 **automatically on December 31, 2019, unless reauthorized by an act of the general**
244 **assembly; and**

245 **(2) If such program is reauthorized, the program authorized under this section**
246 **shall sunset automatically on December 31, 2031; and**

247 **(3) This section shall terminate on December thirty-first of the calendar year**
248 **immediately following the calendar year in which the program authorized under this**
249 **section is sunset.**

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